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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of:

FRANK CHACON, Jr., DBA PARKHOUSE
TIRE, INCORPORATED

TPID NO: 1000089-01

RESPONDENT.

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2010-011110-ADC

INTRODUCTION

This Complaint for Penalty seeking twenty four thousand dollars (\$24,000.00) is issued by the California Department of Resources Recycling & Recovery (CALRECYCLE) against FRANK CHACON, JR., DBA PARKHOUSE TIRE, INCORPORATED (RESPONDENT), a waste tire hauler registered with CALRECYCLE. The California Integrated Waste Management Board (CIWMB) is now the Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section 40401(a)(1). Section 42962 of the Public Resources Code (PRC) authorizes CALRECYCLE to administratively impose penalties for violations of any provision of California's Tire

1 Hauler Registration Law located at PRC section 42950 et seq. and Title 14 of the
2 California Code of Regulations (CCR) section 18449 et seq. This complaint is so issued
3 based on the following facts:

4 **STATEMENT OF FACTS**

5 1. CALRECYCLE has authority to regulate and conduct enforcement actions
6 regarding Waste Tire Haulers within the State of California under PRC §42950 et seq.
7 and attendant regulations contained in 14 CCR Chapter 6, Articles 1 through 11.

8 2. RESPONDENT has been a registered tire hauler since August 1998.
9 RESPONDENT'S current registration expires on December 31, 2010.

10 3. RESPONDENT operates a tire-related business from various locations
11 throughout California, including the following: 4660 Ruffner Street, San Diego, California
12 92111; 5960 Shull Street, Bell Gardens, California 90201; 16350 South D Street,
13 Victorville, California 92392; 115 Union Avenue, Bakersfield, California 93307.

14 4. RESPONDENT was provided instruction regarding the proper completion,
15 retention, and delivery of California Uniform Waste and Used Tire Manifests, also
16 known as Comprehensive Trip Logs (CTLs) via an e-mail dated August 29, 2009, from
17 Michael Payan, Integrated Waste Management Specialist, to Doug St. Onge, Manager
18 for RESPONDENT.

19 5. During an inspection on September 29, 2009, by Christine Buchanan and
20 Daron Warkentin, Local Enforcement Grantees for CALRECYCLE from the City of San
21 Diego, of RESPONDENT's 4660 Ruffner Street facility, and documented in Waste Tire
22 Survey and Inspection Report (Inspection Report) number I1-1092272, Ms. Buchanan
23 observed a truck with California license plate number 8H39557 transporting more than
24 10 waste or used tires. The truck did not have a CALRECYCLE waste/used tire hauler
25 registration and decal as required by PRC section 42951. The truck was registered
26 through the California Department of Motor Vehicles to RESPONDENT.

27 6. During an inspection on February 8, 2010, by Vance Tracy, Integrated
28 Waste Management Specialist, of the City of Indio, and documented in Inspection

Report number I5-1058181, Mr. Tracy discovered 10 CTLs for waste tire pick-ups dated between September 18, 2009 and December 11, 2009 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As of the date of filing of this Administrative Complaint, the same CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3520815-B	9/18/09	12/17/09	10	City of Indio
3520812-A	9/22/09	12/21/09	4	City of Indio
3520823-A	9/25/09	12/24/09	0.15	City of Indio
3520812-B	9/29/09	12/28/09	3	City of Indio
3520811-A	10/1/09	12/30/09	7	City of Indio
3520829-A	10/9/09	1/7/10	6	City of Indio
3729200-B	10/16/09	1/14/10	4	City of Indio
3729206-B	10/22/09	1/20/10	8	City of Indio
3520828-B	11/4/09	2/2/10	9	City of Indio
3729216-A	12/11/09	3/11/10	9	City of Indio

7. On April 1, 2010, Joseph Feliciano, Code Enforcement Officer for Riverside County, encountered a truck with VIN number 1GC5CXBGXAZ199488 hauling 10 or more waste tires, as documented in Inspection Report number I1-1121730. The truck did not have a CALRECYCLE waste/used tire hauler registration and decal as required by PRC section 42951. The truck was registered through the California Department of Motor Vehicles to RESPONDENT.

8. During an inspection of Estes Express Lane on May 10, 2010, by Vance Tracy, Integrated Waste Management Specialist for CALRECYCLE, and documented in Inspection Report number I3-1066208, Mr. Tracy discovered 5 CTLs for waste tire pick-

ups dated between March 13, 2009, and February 2, 2010 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As of the date of filing of this Administrative Complaint, the same CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3403247-B	03-13-09	6/11/09	34	Estes
3514061-B	05-29-09	8/27/09	26	Estes
3514096-C	06-03-09	9/1/09	45	Estes
3729327-A	11-10-09	2/8/10	29	Estes
3728813-A	02-02-10	5/3/10	40	Estes

9. During an inspection of C&R Express Lines on May 10, 2010, by Vance Tracy, and documented in Inspection Report number I6-1059024, Mr. Tracy discovered 2 CTLs for waste tire pick-ups dated April 28, 2009 and April 1, 2010 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As of the date of filing of this Administrative Complaint, the same CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3867000-A	04-01-10	6/30/10	10	C&R Express Lines
3514026-A	04-28-09	6/27/09	8	C&R Express Lines

10. During an inspection of American Medical on May 17, 2010, by Vance Tracy, and documented in Inspection Report number I2-1059037, Mr. Tracy discovered 6 CTLs for waste tire pick-ups dated June 17, 2009 through April 23, 2010 that had not

1 been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR
2 section 18459.2.1. As of the date of filing of this Administrative Complaint, the same
3 CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3616937-B	06-17-09	9/15/09	4	American Medical Response
3866919-A	04-23-10	7/22/10	8	American Medical Response
3716141-B	09-08-09	12/7/09	6	American Medical Response
3616938-C	09-12-09	11/10/09	?	American Medical Response
3514269-A	07-16-09	10/14/09	13	American Medical Response
3728888-B	02-10-10	5/11/10	2	American Medical Response

ALLEGATIONS OF PRIOR VIOLATIONS

11. On March 4, 2009, CALRECYCLE issued a Decision and Order for
penalties in the amount of \$1,500.00 against RESPONDENT for 31 violations of
California's Tire Hauler Law between January 8, 2008 and December 10, 2008.

ALLEGATIONS OF SPECIFIC VIOLATIONS

12. On September 29, 2009, RESPONDENT knowingly violated PRC section
42951(a), by engaging in the transportation of more than nine waste tires without
holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without

1 falling under a specific exemption listed in PRC section 42954.

2 13. On April 1, 2010, RESPONDENT knowingly violated PRC section
3 42951(a), by engaging in the transportation of more than nine waste tires without
4 holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without
5 falling into a specific exemption listed in PRC section 42954.

6 14. On 23 separate occasions from March 13, 2009, through April 23, 2010,
7 RESPONDENT knowingly violated PRC section 42961.5(c)(2) by failing to submit CTLs
8 to CALRECYCLE on a quarterly schedule.

9 15. On the same 23 separate occasions from March 13, 2009, through April
10 23, 2010, RESPONDENT violated 14 CCR section 18459.2.1 by failing to submit CTLs
11 to CALRECYCLE within 90 days of the load shipment.

12 16. CALRECYCLE'S investigations into the unlawful activities of are ongoing,
13 and CALRECYCLE reserves the right to amend this Administrative Complaint upto and
14 during any hearing set forth in this matter.

15 16 PENALTIES

17 17. CALRECYCLE's authority to assess administrative penalties against
18 RESPONDENT as a waste tire hauler is set forth in PRC section 42962(c), which
19 states:

20 . . . [CALRECYCLE] may impose civil penalties administratively in an
21 amount not to exceed five thousand dollars (\$5,000) for each
22 violation of a separate provision or for continuing violations for each
23 day that violation continues, on any person who intentionally or
negligently violates any permit, rule, regulation, standard, or
requirement issued adopted pursuant to this chapter. . .

24 Pursuant to this section, RESPONDENT is subject to a separate administrative
25 penalty of up to \$5,000.00 for each alleged specific violation listed in paragraphs five
26 through 10 in this Administrative Complaint.

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1 18. 14 CCR section 18463, provides in relevant part:

2 Any waste tire generator, end-use facility, or waste tire hauler or any party or
3 person who commits any of the following acts shall be liable for a civil penalty:

4 (a) Intentionally, or negligently violates any permit, rule, regulation,
5 standard, or requirement pursuant to Chapter 19 of the Public Resources
6 Code relating to the generation, transportation or disposal of used or waste
7 tires.

8 (b) The aiding or abetting, or allowing of any violation, or noncompliance
9 with any permit, rule, regulation, standard, or requirement pursuant to Chapter
10 19 of the Public Resource Code relating to the generation, transportation or
11 disposals of used or waste tires.

12 19. The penalty chart located at 14 CCR section 18464 provides that
13 CALRECYCLE may also seek penalties of up to \$500 for each instance in which
14 RESPONDENT violated PRC section 42961.5 by failing to submit CTLs to
15 CALRECYCLE within the time proscribed.

16 20. In determining an appropriate administrative penalty for RESPONDENT,
17 as required by 14 CCR section 18465, CALRECYCLE has taken into consideration the
18 following factors:

19 (1) The nature, circumstances, extent, and gravity of the violation.

20 (2) Evidence that the violation was willful or negligent.

21 (3) The good or bad faith exhibited by the party.

22 (4) History of violation of the same or similar nature.

23 (5) The extent to which the party has cooperated with the Department in
24 remediating or injury caused by his or her violation.

25 (6) The extent that the party has mitigated or attempted to mitigate any damage
26 or injury caused by his or her violation.

27 (7) Evidence of any financial gain resulting from the violation.

28 (8) Such other matters as justice may require.

29 21. Accordingly, CALRECYCLE hereby requests that an administrative
30 penalty be assessed against RESPONDENT in the sum of twenty four thousand dollars
31 (\$24,000.00).

1 **RIGHT TO HEARING**

2 You are hereby notified that pursuant to the provisions of PRC section 42962(c)
3 of the California Public Resources Code and Government Code section 11500 that you
4 are entitled to a hearing to refute the allegations against you contained in this
5 Administrative Complaint. **If you wish to have a hearing on this matter, you must**
6 **complete and return the enclosed REQUEST FOR HEARING to our Legal Office**
7 **within 15 days of receipt of this notice. Failure to complete and return the**
8 **REQUEST FOR HEARING within 15 days will be deemed a waiver of your rights to**
9 **a hearing.**

10 Pursuant to the above referenced Public Resources Code and Government Code
11 sections, discovery requests by any party must be made within thirty days after the
12 service of this Administrative Complaint.

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14 Dated this 29th day of September, 2010.

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17 HEATHER L. HUNT

18 Staff Counsel III
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